

**VOLUME VII. APPOINTMENT OF COUNSEL
IN CRIMINAL CASES**

Section A. Guidelines for the Administration of the Criminal Justice Act and Related Statutes

INTRODUCTION

Pursuant to approval of the Judicial Conference of the United States, the *Guidelines for the Administration of the Criminal Justice Act and Related Statutes* are provided.

Questions concerning the *Guidelines* and suggestions for improvement of the information should be directed to:

Defender Services Division
Administrative Office of the U.S. Courts
Washington, DC 20544

(202) 273-1670

TABLE OF CONTENTS

PAGE

Chapter I. CRIMINAL JUSTICE ACT AND RELATED STATUTES

| | |
|--|----|
| CRIMINAL JUSTICE ACT (PUBLIC LAW 88-455, APPROVED AUGUST 20, 1964), TITLE 18, UNITED STATES CODE, SECTION 3006A, AS AMENDED BY PUBLIC LAW 90-578, APPROVED OCTOBER 17, 1968; PUBLIC LAW 91-447, APPROVED OCTOBER 14, 1970; PUBLIC LAW 93-412, APPROVED SEPTEMBER 3, 1974; PUBLIC LAW 97-164, APPROVED APRIL 2, 1982; PUBLIC LAW 98-473, APPROVED OCTOBER 12, 1984, PUBLIC LAW 99-651, APPROVED NOVEMBER 14, 1986; PUBLIC LAW 100-182, APPROVED DECEMBER 7, 1987; PUBLIC LAW 100-690, APPROVED NOVEMBER 18, 1988; PUBLIC LAW 104-132, APPROVED APRIL 24, 1996; PUBLIC LAW 105-119, APPROVED NOVEMBER 26, 1997 | 1 |
| 18 U.S.C. § 3005 (ACT OF JUNE 25, 1948, CHAPTER 645, 62 STAT. 814), AS AMENDED BY PUBLIC LAW 103-322, APPROVED SEPTEMBER 13, 1994 | 11 |
| SELECTED PROVISIONS OF THE ANTI-DRUG ABUSE ACT OF 1988, PUBLIC LAW 100-690, CODIFIED IN PART IN TITLE 21, UNITED STATES CODE, SECTION 848(q), APPROVED NOVEMBER 18, 1988, AS AMENDED BY THE ANTITERRORISM AND EFFECTIVE DEATH PENALTY ACT OF 1996, PUBLIC LAW 104-132, APPROVED APRIL 24, 1996 | 11 |

Chapter II. APPOINTMENT AND PAYMENT OF COUNSEL

Part A. Eligibility for Representation Under the Act

| | |
|---------------------------------------|---|
| 2.01 District Plans | 1 |
| 2.02 Criminal Justice Act Forms | 7 |
| 2.03 Factfinding | 7 |
| 2.04 Standards for Eligibility | 8 |
| 2.05 Partial Eligibility | 8 |
| 2.06 Family Resources | 9 |

| | |
|--|----|
| 2.05 Partial Eligibility | 8 |
| 2.06 Family Resources | 9 |
| Part B. <u>Appointment of Counsel</u> | |
| 2.10 Appointment of Counsel to Represent More Than One Individual in a Particular Case | 9 |
| 2.11 Compensation of Co-Counsel | 9 |
| 2.12 Continuity of Representation | 9 |
| 2.13 Other Appointments | 10 |
| 2.14 Appointment of Counsel in Habeas Corpus and Proceedings under Section 2255, Title 28, United States Code | 10 |
| 2.15 Forms for the Appointment of Counsel | 11 |
| 2.16 Waiver of Counsel | 11 |
| 2.17 Standby Counsel | 11 |
| 2.18 Termination of Appointment | 11 |
| 2.19 Federal Defender Organizations | 12 |
| Part C. <u>Compensation and Expenses of Appointed Counsel</u> | |
| 2.20 Forms to be used | 12 |
| 2.21 Time Limits | 12 |
| 2.22 Limitations | 12 |
| 2.23 Prior Authorization by Court to Counsel to Incur Expenses | 20 |
| 2.24 Proration of Claims | 20 |
| 2.25 Substitution of Counsel | 20 |

| | |
|---|----|
| 2.26 Travel Time | 20 |
| 2.27 Reimbursable Out-of-Pocket Expenses | 21 |
| 2.28 Non-reimbursable Items | 23 |
| 2.29 Writ of Certiorari | 23 |
| 2.30 Interim Payments to Counsel | 24 |
| 2.31 Law Student and Computer Assisted Legal Research | 24 |
| 2.32 Record Keeping | 25 |

Chapter III. AUTHORIZATION AND PAYMENT FOR INVESTIGATIVE,
EXPERT OR OTHER SERVICES

Part A. General

| | |
|---|---|
| 3.01 Availability | 1 |
| 3.02 Limitations | 2 |
| 3.03 <i>Ex Parte</i> Applications | 3 |
| 3.04 Claims for Services Other than Counsel | 3 |
| 3.05 Forms for the Authorization and Payment for Services Other than Counsel | 3 |
| 3.06 Interim Payments | 4 |
| 3.07 Review of Vouchers | 4 |

Part B. Policies Regarding Investigative, Expert and Other Services

| | |
|--|---|
| 3.10 Investigators | 5 |
| 3.11 Psychiatrists, Psychologists | 5 |
| Summary Chart - Responsibility for Payment of Psychiatric and Related Expert Services | 8 |

| | |
|---|----|
| 3.12 Transcripts | 10 |
| 3.13 Fact Witnesses and Depositions | 12 |
| 3.14 Guardian Ad Litem | 13 |
| 3.15 Commercial Computer Assisted Legal Research Services | 13 |
| 3.16 Other Services and Computer Hardware and Software | 14 |
| 3.17 Reimbursement of Expenses | 15 |

Chapter IV. DEFENDER ORGANIZATIONS

| | |
|--|---|
| 4.01 Statutory Authority | 1 |
| 4.02 Types of Defender Organizations | 2 |
| 4.03 Transcripts, Investigative, Expert and Other Services | 5 |
| 4.04 Assignment of Cases | 6 |
| 4.05 Apportionment of Cases Between Defender Organizations and the Panel | 6 |
| _____ 4.06 Participation as <i>Amicus Curiae</i> | 7 |

Chapter V. MISCELLANEOUS PROCEDURES

| | |
|--|---|
| 5.01 Procedures for the Release of Information Pertaining to Activities Under the Criminal Justice Act and Related Statutes | 1 |
| 5.02 Annual Report of Attorneys Claiming Compensation for More Than One Thousand Hours | 4 |

Chapter VI. REPRESENTATION IN FEDERAL DEATH PENALTY CASES
AND IN FEDERAL CAPITAL HABEAS CORPUS PROCEEDINGS

| | |
|---|---|
| 6.01 Appointment of Counsel in Capital Cases | 1 |
| 6.02 Compensation of Appointed Counsel in Capital Cases | 5 |
| 6.03 Authorization and Payment for Investigative, Expert and Other Services in Capital Cases | 9 |

| | |
|---|------|
| <u>Appendix A</u> - Criminal Justice Act Forms | A-1 |
| <u>Appendix B</u> - Location Codes | B-1 |
| <u>Appendix C</u> - Suggested Form for Advance Authorization for Investigative, Expert or Other Services | C-1 |
| Model Order Authorizing the Acquisition of Computer [Hardware and/or Software] Under the Criminal Justice Act | C-3 |
| <u>Appendix D</u> - Community Defender Organization: Grant and Conditions | D-1 |
| <u>Appendix E</u> - Interim Payments to Counsel | |
| In non-death penalty cases | E-1 |
| In death penalty cases | E-7 |
| <u>Appendix F</u> - Interim Payments for Services Other than Counsel | |
| In non-death penalty cases | F-1 |
| In death penalty cases (commenced or appeal perfected <u>before</u> 4/24/96) | F-6 |
| In death penalty cases (commenced or appeal perfected <u>on or after</u> 4/24/96) | F-10 |
| <u>Appendix G</u> - Model Criminal Justice Act Plan | G-1 |
| Model Plan for the Composition, Administration and Management of the Panel of Private Attorneys under the Criminal Justice Act | G-12 |
| <u>Appendix H</u> - Insanity Defense Reform Act of 1984 | H-1 |
| <u>Appendix I</u> - Federal Death Penalty Cases | I-1 |
| Recommendations adopted by the Judicial Conference, and accompanying commentary, from the report of the Defender Services Committee's Subcommittee on Federal Death Penalty Cases entitled, <i>Federal Death Penalty Cases: Recommendations Concerning the Cost and Quality of Defense Representation</i> | I-1 |

Section B. Regulations for the Appointment of Counsel
Pursuant to a Prisoner Transfer Treaty
(18 U.S.C. 4109)

| | |
|---|-----|
| General Provisions | 1 |
| Appointment of Counsel | 2 |
| Compensation and Reimburesement of Expenses | 4 |
| Appendix A | A-1 |
| Appendix B | B-1 |
| Appendix C | C-1 |
| Appendix D | D-1 |
| Appendix E | E-1 |
| Appendix F | F-1 |